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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,937	01/21/2004	Alexander G. MacInnis	51706/JEJ/B600	5694

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 10/25/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

10/762,937

Applicant(s)

MACINNIS ET AL.

Examiner

Jeffery A. Brier

Art Unit

2628

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 17 August 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

see page 2.

Attachment: Information Disclosure Statement PTO/SB/08A.

Jeffery A Brier  
Primary Examiner  
Art Unit: 2628

Art Unit: 2628

1. The Appeal Brief filed on 8/17/2007 is additionally defective for the following reasons:

#### V. SUMMARY OF THE CLAIMED SUBJECT MATTER

##### Claim 21:

On page 4 first full paragraph appellant refers to page 3 lines 27-28 and page 34 lines 14-20 as describing a plurality of logical surfaces on which the graphics images are arranged, however, this portion of the specification only describes organizing the graphics images into windows (logical surfaces). Appellant then refers to page 28 line 12 to page 29 line 2 as at least one of the graphics images includes pixels of a single color, however, this portion of the specification only describes data format and does not describe "pixels of a single color". Appellant then refers to "WINDOW COLOR [15:0], wherein the pixels for the graphics image including pixels of the single color are generated using the color indicating field by applying the single color to the corresponding one of the logical surfaces, for example, p.25, l 24-p.26 l 3.", however, in view of page 25 lines 24-26 and page 30 lines 8-15 the WINDOW COLOR [15:0] applies to the window color but not to the graphic images organized into the window. Thus, appellants brief summary of the invention is defective for failing to correctly refer to for each claimed feature a corresponding portion of the specification.

##### Claim 28:

On page 5 first full paragraph appellant's summary is similar to the summary given for claim 21 and is defective for the same reasons given for claim 21.

Claim 35:

In the paragraph spanning pages 5 and 6 appellant's summary refers to page 3 lines 27-28 and page 34 lines 14-20 as well as page 25 line 24 to page 26 line 3 which is defective for the reasons given for claim 21.

VII. ARGUMENT

The argument at page 7 concerning the 35 USC 112 first paragraph rejection fails to refer to any specific portion of the specification in support of appellant's allegation.

The argument at page 8 concerning the 35 USC 112 second paragraph rejection fails to refer to any specific portion of the specification in support of appellant's allegation.

The argument C at pages 8-9 concerning the wherein clause refers to page 24 line 24 to page 26 line 3 which does not describe using the WINDOW COLOR [15:0] to generate the pixels of the graphics image with a single color. The argument C does not treat each ground of rejection separately under a separate heading instead appellant argues the 112 first and second paragraph rejections together rather than separately. See MPEP 1205.02 at page 1200-15 first column.

The argument D refers to "indefinite issue" but other issues are present at FOA at page 4.

2. Appellant should note MPEP 1205.03 at page 1200-16 second column first paragraph which states "The appeal will be dismissed if the appellant does not timely

Art Unit: 2628

file an amended brief, or files an amended brief which does not overcome all the reasons for noncompliance of which the appellant was notified." See also MPEP 1215.04 at page 1200-64 second column second paragraph which states with regard to dismissed appeals "Applications having no allowed claims will be abandoned."

### ***Information Disclosure Statement***

3. The information disclosure statement filed 8/13/2007 fails to comply with 37 CFR 1.97(d) because it lacks a statement as specified in 37 CFR 1.97(e). It has been placed in the application file, but the information referred to therein has not been considered.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A Brier whose telephone number is (571) 272-7656. The examiner can normally be reached on M-F from 7:30 to 4:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (571) 272-7664. The fax phone Number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Art Unit: 2628

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jeffery A. Brier/  
Primary Examiner, Division 2628